REMARKS

Applicant has carefully examined the Office Action issued on May 19, 2005, and respectfully submits this communication to further distinguish the claimed invention over the cited prior art of record, and to place the application, as a whole, into *prima facie* condition for allowance at this time.

At the outset, Applicant acknowledges with gratitude that the Information Disclosure Statement (IDS), with copies of the references cited therein, was received by the United States Patent and Trademark Office on November 26, 2004, and that an initialized copy of the IDS was enclosed with the present Office Action.

In addition, Applicant acknowledges with gratitude that claims 2-4, 6, 8-10, 12, 16-18, 20, 27-29, 31, 36-38, 40, and 43 have merely been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 5, 7, 11, 13-15, 19, 21-26, 30, 32-35, 39, 41, 42, and 44 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,400,491 B1 issued to Tench et al. (hereinafter the '491 patent). Applicant respectfully traverses the above-identified 35 U.S.C. §102(b) rejection of claims 1, 5, 7, 11, 13-15, 19, 21-26, 30, 32-35, 39, 41, 42, and 44 based upon the above-identified reference.

With regard to independent claims 1, 14, 23, 24, 25, and 34, as well as all associated dependent claims, the Examiner contends that the '491 patent discloses, among other elements, "an anodic electroactive material (column 6, lines 42-43)," and "a cathodic electroactive material (column 6, lines 40-42)." Applicant respectfully submits that such a contention is improper because the '491 patent does not, in any way, teach an anodic electroactive material and a cathodic electroactive material as is disclosed and expressly claimed in the present invention.

In particular, Applicant respectfully submits that the '491 patent discloses a reversible electrochemical mirror (REM) which operates in a "rocking chair" type manner wherein deposition/plating occurs via a conventional plating-solution-plating mechanism. Indeed, such devices generally operate using a single electroactive metal species, such as silver, wherein: (1) a negative electrical potential applied to the first electrode causes deposited metal (e.g. silver metal) to be oxidized and, in turn, dissolved from the second electrode into the electrolytic solution and to be reduced and, in turn, electrodeposited from the solution onto the first electrode – to increase reflectivity; and wherein (2) a positive electrical potential applied to the first electrode causes deposited metal (e.g. silver metal) to be oxidized and, in turn, dissolved from the first electrode into the solution and to be reduced and, in turn, electrodeposited from the solution onto the second electrode – to decrease or eliminate reflectivity (see abstract, column 4, lines 36-56, column 7, lines 2-22, and claim 1). It will be understood that in the '491 patent the same metal is being oxidized at an electrode upon dissolution and reduced at an electrode upon electrodeposition. As such, Applicant respectfully submits that the device disclosed in the '491 patent does not utilize an anodic electroactive material which undergoes oxidation and a separate cathodic electroactive material which undergoes reduction. Indeed, Applicant respectfully submits that the '491 patent actually teaches against such a device that contains auxiliary redox species that are oxidized at the counter electrode (i.e. anodic electroactive materials) during metal deposition (see column 2, lines 13-34).

Furthermore, Applicant respectfully submits that the halide and/or pseudohalide anions disclosed in the '491 patent (column 6, lines 40-42) are not anodic electroactive materials which undergo oxidation during normal operation of the device – especially at the nominal potentials identified throughout the entire specification (see especially the examples).

With regard to claims 1, 15, 23, 26, and 35 the Examiner contends that the '491 patent discloses, among other elements, "a redox buffer (column 8, line 52 – column 9, line 25)." Applicant respectfully submits that such a contention is improper because the '491 patent does not, in any way, disclose a redox buffer as is disclosed and expressly claimed in the present invention.

Specifically, the '491 patent teaches that the electrolytic solution 112 may include "one or more stiffening agents...[such as] dispersed inorganic materials...[which] are typically electrochemically inert in the voltage ranges of interest for REM devices," (column 8, lines 54-60) or "one or more coloring agents...such as inorganic or organic materials...which must be selected to be electrochemically unreactive in the REM voltage operating range" (column 9, lines 12-25). To be sure, while the Examiner has directed Applicant to these specific passages of the '491 patent based on the contention that a redox buffer is disclosed therein, Applicant respectfully submits that such components of the electrolytic solution 112 are not, in any way, a redox buffer. In fact, the teaching of components which are electrochemically unreactive and/or impart a color actually teach away from the function of a redox buffer. It will be understood that a redox buffer must be electrochemically active and capable of either oxidation or reduction, in order to, among other things, preclude undesirable and/or residual coloration. (see paragraph 26 of the present application).

In light of the foregoing clarifying comments, Applicant respectfully submits that the bases for rejection of independent claims 1, 14, 23, 24, 25, and 34, as well as all associated dependent claims, under 35 U.S.C. §102(b) has been overcome. Accordingly, reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection based upon the above-identified reference are respectfully requested.

Applicant further submits that any subsequent 35 U.S.C. §103 rejection based upon the above-identified reference, either alone or in combination with the prior art of record, would be improper inasmuch as there is no fair teaching or suggestion to modify the structures of the above-identified reference to, in turn, arrive at the superior and unexpected results of Applicant's invention as disclosed and expressly claimed.

In light of the foregoing, Applicant respectfully submits that the Application is in *prima facie* condition for allowance at the present time. Accordingly, Applicant respectfully requests reconsideration of the present application and passage toward issuance thereof.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Should the Examiner have any questions regarding the present application, a telephone call to the undersigned is respectfully solicited.

Respectfully submitted,

KING & JOVANOVIC, PLC

Dated: 9/19/05

William L. King III
William L. King III
Reg. No. 46,830

KING & JOVANOVIC, PLC
170 College Avenue, Suite 230
Holland, Michigan 49423
Phone (616) 355-0400
Facsimile (616) 355-9862